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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,336	06/26/2003	Namon A. Nassef	230339	2851

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12/20/2005

Peter Loffler
P.O. Box 1001
Niceville, FL 32588-1001

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/603,336
Filing Date: June 26, 2003
Appellant(s): NASSEF, NAMON A.

Peter Loffler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed Sept. 22, 2005 appealing from the Office action mailed Dec. 18, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 7-11, and 15-18 are obvious under 35 USC 103 over Spinelli (US 6581322) in view of Wentzell (US 5720124).

Claims 4-6 and 12-14 are obvious under 35 USC 103 over Spinelli in view of Wentzell and further in view of Stanish et., (US 4685242).

(10) Response to Argument

Applicant argues that homogeneity of chum achieves no useful results. However, applicant has cited no evidence to support this allegation. Homogeneity of chum would provide a more uniform chum coverage in a larger area of water than throwing three pieces of cut fish into the water. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is in the knowledge generally available to one of ordinary skill in the art. The location of the impeller blade in Spinelli is above the bottom of the housing which can be considered to be the outlet port and below the top of slots 51 which can be considered to be inlet ports. Applicant states that Spinelli lacks an impeller blade but this is incorrect since blade 33 can be considered to be an impeller


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blade since it mounted below blade 32 and attached to the shaft 31 as shown in Figs. 6b and 6c. This blade and blade 36 will drive a fluid since both have a thickness. As to giving the claims there broadest reasonable interpretation and plain meaning, applicant again, has submitted no evidence that the blades recited can not be considered as an impeller blade. Applicant argues that the combination of reference to Spinelli and Wentzell would be inoperative, but this is not the case since the fluctuation of the water level inside the chummer would help gravity move the bait through the cutting blades.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

KR


KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

Conferees:

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JK 